

STATE OF SOUTH DAKOTA REMOTE WORK POLICY

I. OVERVIEW

- A. **Policy Statement.** This policy provides guidelines when a remote work arrangement meets the business needs of the agency.
- B. **Scope.** This policy applies to all eligible employees of the executive branch under the purview of the Governor.
- C. **Definitions.**
 - 1. **Remote Work** is the performance of job duties on a regular, recurring basis at an alternate location not owned or leased by the State and other than a position's typical work site.
 - 2. **Remote Work Agreement** is a signed document that outlines the understanding between the agency and the employee regarding the remote work arrangement.
 - 3. **Remote Work Office** refers to the approved alternative location that is not owned or leased by the State in which an employee is authorized to conduct work off site.
 - 4. **Remote Worker** is an employee who has entered into a remote work agreement with his or her agency.
- D. **Eligibility.** Eligibility is determined on a case-by case basis with approval of the employee's supervisor, division director, and agency head.
- E. **Exclusions.** This policy doesn't apply to employees who:
 - 1. Work at home on a short-term basis as a temporary reasonable accommodation;
 - 2. May work occasionally at home for various reasons; or
 - 3. Work from home under business continuity or pandemic situations.
- F. **Length of the Remote Work Agreement.** Once entered into, the remote work agreement is in effect until terminated by the agency or the employee. At a minimum, the agreement must be reviewed annually.

II. GENERAL STANDARDS AND EXPECTATIONS

The ability to remote work is discretionary on the part of management and voluntary on the part of the employee. The ability to remote work is NOT an employee benefit or right; it does NOT change the terms and conditions of employment with the State; and It is NOT appealable under the Civil Service rules.

Not all work situations or positions are appropriate for remote work, nor is remote work appropriate for all employees. Any agency that permits remote work must ensure that appropriate training, work environment, and expectations are provided.

III. EMPLOYEE EXPECTATIONS

- A. **Compliance.** The remote worker must comply with all the terms of the Remote Work Agreement, state employee policies and procedures, agency specific policies and procedures, and applicable laws and rules.
- B. **Dependent Care.** Remote work hours are regular work hours and are not a substitute for dependent care.
- C. **Work Schedule.** Work hours and location must be specified in the Remote Work Agreement as determined by the supervisor.
- D. **Privacy and Security.** The type of confidential or sensitive information must be documented in the Remote Work Agreement and storage protocols followed.
- E. **Equipment Responsibility.** The remote worker is responsible for insuring and properly maintaining employee-owned equipment.
- F. **Return of Equipment.** The remote worker must return all state-owned hardware, software, equipment, furniture, supplies, documents and other information or property to a designated location upon request or at the end of the Remote Work Agreement, whichever is sooner.
- G. **Notice to Supervisor.** The remote worker must immediately notify the remote worker's supervisor of a malfunction or failure of equipment or facility needed to perform the assigned work.
- H. **Performance.** A decline in job performance may result in termination of the Remote Work Agreement.

- I. **Inclement Weather.** A remote worker who is scheduled to work at a remote work office on a day when state offices in the same county have been closed due to an emergency is expected to work as scheduled unless excused from working by his or her supervisor.
- J. **Taxes.** Federal tax implications of remote working and use of a home office are the responsibility of the remote worker.

IV. **EQUIPMENT AND MATERIALS**

- A. **Agency-provided Equipment.** State agencies may provide, at their sole discretion, office equipment and supplies deemed necessary to perform work off-site. State agencies will maintain an inventory of provided property and equipment.
- B. **Remote Work Office.** By entering into a remote work agreement, the employee agrees that the remote work office is subject to review and approval by the supervisor.
- C. **Employee-owned Equipment.** State agencies may allow the remote worker to use employee-owned computer hardware equipment and software that is necessary to perform assigned work off-site. The remote worker is responsible for insuring and properly maintaining employee-owned equipment.
- D. **Repair of Employee-owned Equipment.** State agencies may elect to provide maintenance and repair for employee-owned equipment, hardware, and software. Such an arrangement must be included in the Remote Work Agreement.
- E. **Facility Costs and Responsibilities.** The remote worker is responsible for establishing and maintaining a safe and secure office in the home, including ensuring that adequate and reliable utility resources are present (i.e. phone and internet services). The remote worker is responsible for all costs related to modification of the remote work office including but not limited to remodeling or electrical modifications.

The agency is not responsible for operating costs, home maintenance, or any other costs (e.g., utilities, internet services, furniture), associated with the use of the remote worker's home as the remote work office.

- F. **Commuting.** If a remote worker's remote work office and home station work site are different, mileage between the two is considered commuting mileage and is not subject to reimbursement. Similarly, the remote worker will not be compensated for time spent commuting between the remote work office and the home station work site during normal working hours.

V. DATA AND SECURITY

The remote worker and supervisor must agree on data security and a transfer process necessary to meet the needs of the agency, to protect the security of data, and to comply with applicable federal and state laws, policies, and procedures. Data, in whatever form (paper or electronic) created or maintained during a remote work agreement is and remains the property of the State and is subject to South Dakota open records laws and agency records retention policies.

VI. LIABILITY

- A. Extension of State Agency.** The remote work office is considered an extension of the state agency during the agreed upon work hours. The remote worker must protect the work space from hazards and dangers that could affect the remote worker or equipment.

The employee must complete and return to the agency a **State of South Dakota Remote Work Office Safety Checklist**, which will certify that the remote work office complies with the listed requirements to ensure the safety of the workspace. This checklist must be completed and approved by the supervisor prior to remote work beginning. The checklist will be placed in the employee's personnel file.

- B. State-owned Equipment.** A state agency representative may make visits to the remote work office during regular scheduled work hours to ensure that the equipment and work area are free from hazards, and to maintain, repair, inspect, or retrieve state-owned equipment, software, data, or supplies. State agencies are responsible for insuring state-owned equipment.
- C. Third Party Liability.** Agencies do not assume responsibility for third party injury or property damage that may occur at the remote work office, such as injury to a courier driver. The agency will not be liable for damages to the remote worker's property resulting from participation in a remote work agreement. If the remote work office is the teleworker's home, the teleworker must have adequate renter's or homeowner's insurance. By signing the Remote Work Agreement, the remote worker agrees to hold the State harmless against any and all claims, excluding workers' compensation claims. The remote worker accepts responsibility for maintaining the security, condition, and confidentiality of agency equipment and materials that are at the remote work office. If an agency representative is visiting the remote work office on state business and is injured, the injury may be covered by workers' compensation. If the remote work office is the employee's home, the teleworker cannot conduct face-to-face agency-related business at the remote work office.

- D. Workers' Compensation.** A remote worker is covered by the State's workers' compensation laws while in remote work status (i.e, working). Any injury that occurs within the course and scope of employment must be reported to the supervisor immediately, within 3 business days. The remote worker's office is considered an extension of state work space only during scheduled remote work hours for purposes of workers' compensation. The agency assumes no liability for injuries occurring to the remote worker at the remote work office when the injuries are not sustained in conjunction with the employee's regular duties. The remote worker is liable for any injuries sustained by visitors to the remote work office if it is located at the remote worker's home.

When the remote worker performs any part of his or her state job duties in a remote work office located outside the boundaries of the State of South Dakota, it may be necessary for the agency to purchase workers' compensation liability coverage in the state where the remote work office is located. In such a situation, the agency should contact the Department of Labor and Regulation, Workers' Compensation Program or the agency's attorney prior to establishing a remote work agreement.

VII. TERMINATION OF REMOTE WORK AGREEMENT

The State will not be held responsible for costs, damages, or losses resulting from cessation of participation in a remote work agreement.

VIII. REMOTE WORK AGREEMENT

- A. Agreement Required.** State agencies shall complete a Remote Work Agreement when authorizing the use of this policy with an employee. (*See State of South Dakota Remote Work Agreement*). Any employees who were in an agency-approved remote work arrangement prior to the effective date of this policy must comply with this policy, including entering into a new or amended Remote Work Agreement.
- B. Termination or Amendmet of the Agreement.** The agency has the right to terminate or amend the Remote Work Agreement and instruct the employee to resume work at a designated work site at any time. There exists no right to remote work. A remote work agreement should be reviewed when the remote worker has performance issues, there is a change in job responsibilities, or when the agency's needs are not being met. An appropriate transition plan will be developed given the specifics of the situation leading to the termination or amendment of the agreement.

The remote worker may also terminate the Agreement at any time. The remote worker must give advance notice to his or her supervisor of the termination of the Agreement to provide the

supervisor with time to ensure that adequate space is available at an agency work site, to maintain employee schedules, and to ensure that business needs are met.

IX. RESPONSIBILITIES

Agencies are responsible for complying with the terms of this policy, managing the implementation of remote work in their agency, and drafting any corresponding agency specific remote work procedures they deem necessary.

FORMS AND INSTRUCTIONS

State of South Dakota Remote Work Office Safety Checklist

State of South Dakota Remote Work Request Form

State of South Dakota Remote Work Agreement